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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/926,774	12/18/2001	Rudolf Ritter	217092US	1457

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EXAMINER	
O STEEN, DAVID R	
ART UNIT	**PAPER NUMBER**
2623	

SHORTENED STATUTORY PERIOD OF RESPONSE	NOTIFICATION DATE	DELIVERY MODE
3 MONTHS	03/28/2007	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

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Office Action Summary	Application No.	Applicant(s)	
	09/926,774	RITTER ET AL.	
	Examiner	Art Unit	
	David R. O'Steen	2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *05 January 2007*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-15* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-15* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *18 December 2001* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 1 and 13 have been considered but are moot in view of the new ground(s) of rejection. Specifically, Furness (US 5,596,339) discloses an eye-tracking system on column 4, lines 8-16 of his disclosure. Furthermore, this system is capable of detecting which regions of the video data the user is watching (namely, col. 7, lines 56-67).

On page 7 of the Applicant's remarks, the applicant disputes whether the Scarampi transmits data on lines of sight to the central unit. On page 8, the applicant further states that Furness does not send eye position (line of sight) data to a central unit. In view of these two facts, the applicant maintains that the Claims 1 and 8 are patentably distinct from Furness and Scarampi, either alone or in combination.

The examiner respectfully disagrees. In the U.S.C. 103 rejections found in the Office Action mailed on October 5, 2006, Furness is relied upon for tracking the user's line of sight (see page 2 of said Action). Scarampi discloses collecting eye-related data and sending it a central unit (see page 3 of said Action). In his disclosure, Scarampi discloses that actual eye positions are monitored (page 13, lines 26-34) and also that the hardware and software deployed can be modified to provide the necessary level of sophistication (page 14, 4-13). Scarampi also teaches that passing along this type of information to other entities, through a central processing unit, is important and worthwhile (page 1, lines 5-27). In view of this evidence, the examiner reiterates that Funrness in view of Scarampi teach every limitation found in Claims 1 and 8 and that

combing Scarampi with Furness would have been obvious to one skilled in the art at the time of the invention to capture and pass along the detailed viewer information collected in Furness so that television networks and cable companies, among others, have feedback about their programming.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-2, 4-6, and 8-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Furness (US 5,596,339) in view of Scarampi (WO 90/02453).

As regards Claims 1 and 8, Furness discloses a method and device wherein the video data are projected directly on the retina of the user by means of a virtual retinal device (fig. 1.10, and col. 3, lines 61-64) and during the projecting of video data, data about the lines of sight of the user relative to the viewed video data are determined by determining current eye positions of user by means of an eye position detection module of the display device (such as an eye tracker, fig. 3.106, and col. 7, lines 41-55) relative to the viewed video data and the central unit determines, based on the viewing data, picture regions of reproduced video data that have been viewed by the user (cols. 7 and 8, lines 40-67 and 1-2). Furness, however, does not disclose that viewing data related to the viewing behavior of user when viewing video data and which viewing data are

transmitted via a telecommunications network to a central unit, where they are further processed, wherein the viewing data are transmitted to the central unit with at least the data on the lines of sight. Scarampi discloses that viewing data related to the viewing behavior (for example, information gathered from examining reflected light from viewers' eyes, pages 13 and 14, lines 26-34 and 1-2) of user when viewing video data and which viewing data are transmitted via a telecommunications network (such as a modem transmitting data over a telephone network) to a central unit, where they are further processed, wherein the viewing data are transmitted to the central unit (a central office or computer) with at least the data on the lines of sight (page 14, lines 4-24).

At the time of the invention, it would have been obvious to one skilled in the art to combine the capturing and processing of viewing data as done in Scarampi, an analogous art, with the virtual retinal display device of Furness to allow broadcasters and others a method of monitoring viewer behavior to gain valuable feedback related to their programming.

As regards Claims 2 and 10, Furness discloses that the current eye positions are compared with predefined values (the eye tracker is able track pupil positions and changes in pupil positions so that image may be updated to take into account where the viewer is now focusing, cols. 7 and 8, lines 55-67 and lines 1-2), and predefined actions are triggered on the basis of the result of the comparison (col. 4, lines 7-16).

As regards Claims 4 and 11, Scarampi discloses that the device includes an identification module, assigned to the user, with the user identification data, and the viewing data include user identification data (pages 12 and 13, lines 14-35 and 1-10).

At the time of the invention, it would have been obvious for one skilled in the art to combine the user identification data of Scarampi, an analogous art, to the virtual retinal display of Furness because user identification data is of great importance to broadcasters and advertisers.

As regards Claims 5 and 12, Scarampi discloses that the device includes a video identification module, which video identification module determines video identification data associated with the video data, and the viewing data include video identification data (page 18, lines 17-31).

At the time of the invention, it would have been obvious to one skilled in the art to combine the video identification of Scarampi, an analogous art, with the virtual retinal display of Furness so that broadcasters and advertisers can be sure they know what programming the viewer is watching.

As regards Claims 6 and 13, Scarampi discloses that the viewing data include time indications (pages 11 and 12, lines 35 and 1-12).

At the time of the invention, it would have been obvious to one skilled in the art to combine the time identifications of Scarampi, an analogous art, with the virtual retinal display of Furness so that broadcasters and advertisers can be sure what the viewer watched and for how long.

As regards Claim 9, Scarampi discloses that the feedback module is set up such that it transmits the viewing data via a telecommunications network (such as a phone network) to a central unit (col. 14, lines 13-24).

As regards Claim 15, Furness discloses that correlation of the lines of sight with picture objects contained in the video data based on the data on the lines of sight relative to the viewed video data, and based on stored pictorial content descriptions including object designations and locations (the eye tracker is able to track the position of the retina and see what images the user is looking at, cols. 7 and 8, lines 41-67 and 1-2).

Claims 3, 7, and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Furness (US 5,596,339) in view of Scarampi (WO 90/02453) and in further view of Kiefl (US 5,382,970).

As regards Claim 3, Furness and Scarampi jointly disclose the method and device of Claims 1 and 8 but fail to disclose that the viewing data are stored in the said central unit. Kiefl discloses that the viewing data are stored in the said central unit (col. 7, lines 1-2).

At the time of the invention it would have been obvious to one skilled in the art to combine the central storage of Kiefl, an analogous art, with the viewing data capturing and processing method of Furness and Scarampi to allow the central unit to keep track of and compile a multitude of viewing records from a variety of users.

As regards Claims 7 and 14, Kiefl discloses that the telecommunications network is a mobile radio network (such as a cell phone network, col. 4, lines 19-30).

At the time of the invention it would have been obvious to one skilled in the art to combine the mobile radio network of Kiefl, an analogous art, with the viewing data

capturing and processing method of Furness and Scarampi to eliminate the need for an installed fixed line communication system.

Conclusion

3. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David R. O'Steen whose telephone number is 571-272-7931. The examiner can normally be reached on 8:30 to 5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Grant can be reached on 571-272-7294. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

DRO

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